

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

| | | |
|---------------------------------|---|------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 16003 |
| [REDACTED], |) | |
| |) | DECISION |
| Petitioner. |) | |
| _____ |) | |

On August 7, 2001, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for 1996 and 1997 in the total amount of \$4,793.

The taxpayer filed a timely appeal. He did not request a hearing, but he submitted additional information. The Tax Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

Because Tax Commission records showed the taxpayer had not filed Idaho resident income tax returns for the years 1996 and 1997, the Bureau conducted research to verify the taxpayer's residency and filing requirement. The taxpayer's residency was confirmed and Idaho source income was identified for each year.

[Redacted]. [Redacted]. [Redacted].

Idaho Code § 63-3045 (1)(a) states:

63-3045. Notice of redetermination or deficiency --
Interest. (1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by registered or certified mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall be sent to the taxpayer's last address known to the state tax commission. The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an explanation of the taxpayer's right to appeal.

Within sixty-three (63) days after such notice is mailed, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

The taxpayer did not respond to correspondence. Therefore, the Bureau issued a Notice of Deficiency Determination. In response to the notice, the taxpayer sent a letter of appeal. He said he was disputing the determination because he was married and had two minor children living with him during both of the years at issue. He included a date of birth and a social security number for his wife and each child. In addition, he said the actual 1997 income amount was less than the amount the Bureau used to determine the Idaho tax due for that year. The taxpayer furnished no further information.

The Bureau expanded its research to determine the accuracy of the taxpayer's claims. Because the information provided by the taxpayer appeared to be more accurate than the information used to prepare the deficiency notice, the Bureau sent the taxpayer a revised determination. The amended determination did not include a deficiency for 1997 because the new computation resulted in no tax due. The Bureau advised the taxpayer the determination of a deficiency for 1997 was canceled and asked him to accept the revised amounts for 1996. The taxpayer did not respond and his file was transferred to the Legal/Tax Policy Division for administrative review.

On April 12, 2002, the Tax Commission received the taxpayer's Idaho returns for the years 1997, 1998, and 1999 along with a letter that was signed by the taxpayer. In the letter, the taxpayer said he had decided to withdraw his protest regarding the 1996 tax year and accept the Bureau's revised determination of tax due.

Secondly, the taxpayer asked to have the refund shown in his 1997 Idaho return applied against his 1996 liability. He said he was not aware of a statute that allows a taxing authority to withhold refunds while continuing to collect taxes beyond a specific time frame.

Idaho Code limits the time allowed for a refund to be credited or refunded. Idaho Code

§ 63-3072(c) states:

Idaho Code § 63-3072. Credits and Refunds. . . .

(c) Except as provided in subsection (e) of section 63-3035, Idaho Code, a claim for credit or refund of tax, penalties, or interest paid shall be made within the later of three (3) years of the due date of the return, without regard to extensions, or three (3) years from the date the return was filed. However, with regard to remittances received with an extension of time to file, or a tentative return, a claim for credit or refund of such remittances shall be made within three (3) years from the due date of the return without regard to extensions.

Idaho Code § 63-3035(e) limits the time for an employee to claim a credit or refund of monies that have been deducted from wages as follows:

Idaho Code § 63-3035. . . .(e) Amounts deducted from wages of an employee during any calendar year in accordance with the provisions of this section shall be considered to be in part payment of the tax imposed on such employee for his tax year which begins within such calendar year and the return made by the employer under this subsection (e) shall be accepted by the state tax commission as evidence in favor of the employee of the amount so deducted from his wages. Where the total amount so deducted exceeds the amount of tax on the employee, based on his Idaho taxable income, or where his income is not taxable under this act, the state tax commission shall, after examining the annual return filed by the employee in accordance with this act, but not later than sixty (60) days after the filing of each return, refund the amount of the excess deducted. **No credit or refund shall be made to an employee who fails to file his return, as required under this act, within three (3) years from the due date of the return, without regard to extensions, in respect of which the tax withheld might have been credited.** In the event that the excess tax deducted is less than one dollar (\$1.00), no refund shall be made unless specifically requested by the taxpayer at the time such return is filed. (Emphasis added.)

Idaho Code § 63-3032 defines the due date of Idaho income tax returns:

Idaho Code § 63-3032. Time for filing income tax returns.

(1) Except as provided in section 63-3033, Idaho Code:

(a) Returns made on the basis of the calendar year shall be filed in the office of the Idaho state tax commission on or before the 15th day of April following the close of the

calendar year and returns made on the basis of a fiscal year shall be filed in the office of the Idaho state tax commission on or before the 15th day of the fourth month following the close of the fiscal year.

The taxpayer had a requirement to file an Idaho individual income tax return for both 1996 and 1997. He did not file either return in a timely manner as required by Idaho Code. In fact, he did not file the 1997 return until April 12, 2002, long after the Bureau contacted him. He did not complete and file a return for 1996. Rather, the taxpayer accepted the Bureau's determination for that year.

The taxpayer's request for a credit or refund of the amount shown as a refund in the 1997 Idaho income tax return the taxpayer submitted for filing with the Tax Commission on April 12, 2002, is denied.

WHEREFORE, the Notice of Deficiency Determination dated August 7, 2001, is hereby MODIFIED, and as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest.

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|------------|----------------|-----------------|--------------|
| 1996 | \$291 | \$73 | \$116 | \$480 |
| 1997 | 0 | 0 | 0 | <u>0</u> |
| | | | TOTAL DUE | <u>\$480</u> |

Interest is computed through May 1, 2002.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of taxpayer's right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2002.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this _____ day of _____, 2002, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No. [Redacted]

[Redacted]

ADMINISTRATIVE ASSISTANT 1